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SUBJECT: MOJ DISCUSSES JUDICIAL REFORM, WOMEN'S RIGHTS AND
CHILD MARRIAGES

REF: A. RIYADH 1012
[1](#)B. RIYADH 361
[1](#)C. RIYADH 875
[1](#)D. RIYADH 1026
[1](#)E. RIYADH 596

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SUMMARY AND COMMENT

[1](#)1. (SBU) Charge, accompanied by Poloff and Commercial Attache, met Minister of Justice Muhammad al-Issa August 19 to discuss issues including a Commercial Law Development Program (CLDP) proposal; judicial reform; women's rights; and child marriages. Al-Issa stressed the importance of judicial review and his responsibility to implement judicial reform as a key part of the king's wider reform agenda; admitted that there were few Shari'a restrictions on women but pointed to Saudi customs and radical interpretations of religious texts as reasons Saudi women lack legal rights; emphasized the reluctance of Saudi society to embrace change (Ref A); cautiously agreed with Charge's challenge that laws often precede social acceptance and that concepts of equality within the Qur'an could be used to guarantee women's rights in the future; announced a study on child marriages would soon be complete; and expressed enthusiastic support for a proposed CLDP program to train Saudi judges. Throughout the meeting, al-Issa was cautious but frank in his discussions with the Charge. END SUMMARY AND COMMENT.

UPDATE ON JUDICIAL REFORMS

[1](#)2. (SBU) Charge Ambassador Erdman noted his understanding that King Abdullah had replaced the previous minister and appointed him (al-Issa) to jump-start the judicial reforms that had been passed in 2007 but never implemented due to internal resistance from within the ministry and judiciary. This move had been part of a broader reform push that had also involved replacing not just the Minister of Justice, but also the Minister of Education and the head of the Ulema (Ref B). Al-Issa, while careful not to criticize his predecessor, concurred this was the context of his appointment, adding that he had played a role, as a member of the Grievance Board, in developing the judicial reform proposals he was now being asked to implement.

[1](#)3. (SBU) The reforms (a new Supreme Court with powers of judicial review, an expanded system of lower courts, redefinition of the role of the Grievance Board, etc.) focused on the procedural process, al-Issa explained, proudly showing a 5-volume series of books documenting Grievance Board decisions from the past year. While judicial review is

a foreign concept in Saudi Shari'a courts, "precedents cannot be ignored" and the books are intended as reference works. Documenting all cases and decisions of the Grievance Board is only the first step. The Ministry of Justice (MOJ) is currently deciding which system of judicial review to use -- a system based on judicial precedent or a system based on new law. Charge noted that judicial review in the United States seemed to be a combination of both systems.

14. (SBU) Charge asked what were the biggest obstacles to his efforts to implement judicial reforms. Not altogether convincingly, al-Issa replied that he had been pleasantly surprised at how accepting MOJ officials were of the various judicial reforms. Thus far, "differing views have been very few." Saudi judicial procedures and rules were very clear, and any judge found not to be in compliance or spouting radical opinions would be dismissed. Asked how many judges have actually been dismissed, he said that to date only two officials have been dismissed, and neither was a judge. He was adamant there were no radical judges in the Saudi judiciary, maintaining that "no judge discriminates against any person, nationality or race." (NOTE: There is ample evidence indicating widespread discrimination against Shi'a, women, and others in the Saudi judicial system. END NOTE.)

WOMEN'S RIGHTS: CUSTOM V. LAW

15. (SBU) Charge said whenever he asked Saudis about restrictions on women's rights, he was always assured these restrictions stemmed from custom and tradition, not Shari'a law. The Prophet's first wife, Khatija, had been a businesswoman and well-to-do trader, and he himself had started out as her employee. If the Qur'an and Shari'a were

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really the basis of the Saudi legal system, how did he (Minister al-Issa) reconcile current treatment of women with these sources of law? It seemed incompatible with how the Prophet treated his own wife. Al-Issa replied that the Qur'an was all about equality before the eyes of God. There were "few Shari'a legal restrictions on Saudi women." Social customs, tradition, and radical interpretations of religious texts were the root of the problem, he said, citing a sociological theory that argues that societies by nature are resistant to change (Ref C and D). For women to be given their legal rights, there must be social acceptance. With 80% of the Saudi population being "very conservative," this was very difficult to achieve.

16. (SBU) Charge responded by asking al-Issa if he was in effect saying that women's rights -- and human rights in general -- were in practice influenced more by public opinion than by Shari'a law. If so, wouldn't that be putting man before God? (Unfortunately, this last point was omitted from the translation, though al-Issa, who speaks some English, may have understood it.) In the United States, we had done a similar thing when it came to rights for black Americans. There were perfectly good laws, but we allowed them to be ignored or overridden by the custom of denying rights and equality. Eventually, we understood the injustice of such actions and used law to change custom, not the reverse. Perhaps the Kingdom should use the concepts of equality within Shari'a law to change custom and guarantee women's rights through rule of law, Charge suggested.

CONSERVATIVE NATURE OF SAUDI SOCIETY CAN'T BE IGNORED

17. (SBU) Al-Issa acknowledged the argument but repeated it was hard to ignore the conservative nature of Saudi culture. In the future, he hoped, "the law will be the law." Increasing women's rights," he continued, "is something that

must happen step by step." Charge commented that ensuring rights for women in the Kingdom was not just a matter of law, it was also a matter of preparing the country against the day - whether 50 or 100 years from now - when it would no longer be able to rely on resources under the ground for its wealth, when the source of its wealth would be its human capital. Systematically excluding half of the population from contributing their talents and intellect to the country's development would put the country at a severe competitive disadvantage with other countries. Fifty years wasn't much in the life of a nation, so there was no time to lose in expanding women's rights and using law to change custom.

THE LEADERSHIP FAVORS REFORM BUT GRADUAL
PACE IS IN THE BEST INTERESTS OF SOCIETY

18. (SBU) Al-Issa replied that the Saudi government "believes in the role of women in society," and highlighted the important role played by the Prophet's wife in preserving and conveying the Prophet's heritage. Al-Issa stressed that the leaders of the country are keen on "achieving the best interests of society," but that reform must take into account society's willingness to embrace change, especially when it comes to women's rights.

CHILD MARRIAGES: STILL WAITING ON AN AGE LIMIT

19. (SBU) Talking about the status of efforts to establish a minimum age for marriage, al-Issa explained that a committee is currently studying the issue and noted that he publicly stated (without giving a date for his statement) that the committee would release its findings and recommendations in 3 months. Charge asked why it should take so long to reach a conclusion that marriage of an 8 or 9-year old was wrong? Al-Issa responded that the Saudi government does not want a "quick fix," but instead seeks to insure a viable solution that takes into account all social customs and traditions. The committee's recommendations, which will include setting a "reasonable" minimum age for marriage, will either be sent to the Shura Council and Council of Ministers to be passed in the form of new legislation or be delivered as a directive from the king. Al-Issa said that in his personal view the legal age for marriage should be set at 18 years. (NOTE: Other Embassy contacts have said they expect the minimum age to be set at 15 years (Ref E). END NOTE.)

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MOJ WELCOMES TRAINING IN COMMERCIAL LAW

10. (SBU) Handing over a list of commercial law training programs both in Arabic and English, Charge recommended a recent proposal by the U.S. Department of Commerce's Commercial Law Development Program (CLDP) to provide training and legal assistance aimed at strengthening the commercial adjudication capacity of judges in Saudi Arabia's courts. Charge said that strengthening judicial capacity in the commercial area, and particularly in the intellectual property rights (IPR) area, would compliment the Kingdom's efforts to attract new technologies and foreign investment in the IT sector. Al-Issa, who was already aware of the program, welcomed it, adding that had the USG not approached the MOJ on this issue, the MOJ would have requested a similar training program. Al-Issa emphasized the importance of and need for training of Saudi judges citing that the biggest obstacle in increasing the number of judges in Saudi Arabia was the lack of qualified candidates. Charge invited the Minister and his staff to work directly with our commercial attache, once they had a chance to review the training programs being offered that would best suit Saudi needs.

ERDMAN